

CHAPTER 79

STATE REVENUE SHARING

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SUBCHAPTER I
MUNICIPAL AND COUNTY SHARED REVENUE

79.005 Definitions. In this subchapter:

(1b) “Alternative energy resource” means a renewable resource, as defined in s. 196.378 (1) (h); garbage, as defined in s. 289.01 (9); or nonvegetation-based industrial, commercial, or household waste.

(1d) “Baseload electric generating facility” means an electric generating facility that has a capacity factor that is greater than 60%, as determined by the public service commission.

(1f) “Capacity factor” means the anticipated actual annual output of an electric generating facility expressed as a percentage of the facility’s potential output. For purposes of this subchapter, the public service commission may review the capacity factor of an electric generating facility at any time.

(1g) “Cogeneration production plant” means an electric generating facility that produces electricity and another form of thermal energy, including heat or steam, that is used for industrial, commercial, heating, or cooling purposes.

(1m) “Municipality” means any town, village or city in this state. If a municipality is located in more than one county, payments under this subchapter shall be computed using data for the municipality as a whole.

(2) “Population” means the number of persons residing in each municipality and county of the state as last determined by the department of administration under s. 16.96.

(2m) “Power generation unit” means a complete set of electric generating equipment, as defined in s. 196.52 (9) (a) 1., that, collectively, is sufficient to generate electric power.

(3) “Production plant” does not include substations and general structures.

(4) “Repowered” means any of the following:

(a) Replacing the boiler on an existing fossil fuel steam unit with a combustion turbine and heat recovery steam generator and reusing the steam turbine and heat rejection system.

(b) Adding a heat recovery steam generator to a simple cycle combustion turbine.

(c) Demolishing or abandoning an existing power generation unit and replacing it with a new power generation unit at the same site.

(d) Replacing steam generating equipment at a combustion-based renewable facility, as defined in s. 196.378 (1) (g), that is located in this state, to increase efficiency or capacity, if the facil-

ity remains a combustion-based renewable facility, as defined in s. 196.378 (1) (g), after replacing the equipment.

History: 1971 c. 125, 215; 1975 c. 39; 1981 c. 20 s. 1169; 1989 a. 336; 2003 a. 31; 2005 a. 141.

79.006 New incorporations. The information needed for the determinations under this chapter shall be calculated as follows: for those years for which the necessary data does not exist, the data for the new municipality and the municipality from which it was formed shall be combined and the sum shall be apportioned to each municipality in proportion to its respective full value in the first year of assessment of the new municipality; if the municipality is formed before April 1, the department of administration shall certify the population of the newly created municipality, and the corrected population of the municipality from which it was formed, and those figures shall be used for distributions under this chapter in the year after the incorporation.

History: 1981 c. 20; 1995 a. 216.

79.01 Accounts established. (1) There is established an account in the general fund entitled the “Expenditure Restraint Program Account.” There shall be appropriated to that account \$25,000,000 in 1991, in 1992, and in 1993; \$42,000,000 in 1994; \$48,000,000 in each year beginning in 1995 and ending in 1999; \$57,000,000 in the year 2000 and in the year 2001; \$57,570,000 in 2002; and \$58,145,700 in 2003 and in each year thereafter.

(2) There is established an account in the general fund entitled the “Municipal and County Shared Revenue Account”, referred to in this chapter as the “shared revenue account”. There shall be appropriated to the shared revenue account the sums specified in ss. 79.03 and 79.04.

(2d) There is established an account in the general fund entitled the “County and Municipal Aid Account.”

(2m) There is established an account in the general fund entitled the “Public Utility Distribution Account,” referred to in this chapter as the “public utility account.” There shall be appropriated to the public utility account the sums specified in s. 79.04 (5), (6), and (7).

(4) There is established an account in the general fund entitled the “County Mandate Relief Account”. There shall be appropriated to that account the amount specified in s. 79.058 (3).

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 283, 336; 1975 c. 39; 1977 c. 29, 203; 1979 c. 221; 1989 a. 336; 1993 a. 16, 437; 1999 a. 9; 2001 a. 16, 109; 2003 a. 31.

79.015 Statement of estimated payments. The department of revenue, on or before September 15 of each year, shall provide to each municipality and county a statement of estimated payments to be made in the next calendar year to the municipality

or county under ss. 79.03, 79.035, 79.04, 79.05, 79.058, and 79.06.

History: 1981 c. 20, 61, 93; 1983 a. 27 ss. 1294, 2202 (45); 1985 a. 29; 1987 a. 27; 1989 a. 336; 1993 a. 16; 2001 a. 109; 2003 a. 33.

79.02 Shared revenue distributions. (1) The department of administration, upon certification by the department of revenue, shall distribute shared revenue payments to each municipality and county on the 4th Monday in July and the 3rd Monday in November.

(2) (a) In this subsection, “estimated payments” means the amounts in the statement provided to the county or municipality under s. 79.015.

(b) Subject to ss. 59.605 (4) and 70.995 (14) (b), payments in July shall equal 15% of the municipality’s or county’s estimated payments under ss. 79.03, 79.035, 79.04, 79.058, and 79.06 and 100% of the municipality’s estimated payments under s. 79.05.

(3) (a) Subject to s. 59.605 (4), payments to each municipality and county in November shall equal that municipality’s or county’s entitlement under ss. 79.03, 79.035, 79.04, 79.05, 79.058, and 79.06 for the current year, minus the amount distributed to the municipality or county in July.

(b) In November 2002, the amount of the payments to each municipality and county under ss. 79.03, 79.04, 79.05, 79.058, and 79.06 to be paid from the appropriation account under s. 20.855 (4) (rb), 2001 stats., shall be the amount of such payments to the municipality or county multiplied by the quotient of an amount equal to the moneys available, as determined by the department of administration, from the appropriation account under s. 20.855 (4) (rb), 2001 stats., divided by \$826,068,930.

(c) 1. In November 2003, the total amount of the payments to each municipality and county under ss. 79.03, 79.04, and 79.06 to be paid from the appropriation account under s. 20.835 (1) (t), 2003 stats., shall equal \$230,000,000 and shall be applied to the payments in the manner determined by the department of revenue.

2. In November 2003, the total amount of the payments to each municipality and county under ss. 79.03, 79.04, and 79.06 to be paid from the appropriation account under s. 20.835 (1) (u), 2003 stats., shall equal \$17,600,000 and shall be applied to the payments in the manner determined by the department of revenue.

3. In November 2003, the total amount of the payments under ss. 79.03, 79.04, and 79.06 to each county and municipality shall be reduced by an amount equal to the amount of supplements paid from the appropriation under s. 20.435 (4) (b) that the county or municipality received for the fiscal year in which a payment is made under this section, as determined under s. 49.45 (51).

(d) 1. In November 2004, the total amount of the payments to each municipality under s. 79.035 to be paid from the appropriation account under s. 20.835 (1) (t), 2003 stats., shall equal \$170,000,000 and shall be applied to the payments in the manner determined by the department of revenue.

2. In November 2004, the total amount of the payments to each municipality under s. 79.035 to be paid from the appropriation account under s. 20.835 (1) (u), 2003 stats., shall equal \$20,000,000 and shall be applied to the payments in the manner determined by the department of revenue.

(e) For the distribution in 2004 and subsequent years, the total amount of the November payments to each county and municipality under s. 79.035 shall be reduced by an amount equal to the amount of supplements paid from the appropriation under s. 20.435 (4) (b) that the county or municipality received for the fiscal year in which a payment is made under this section, as determined under s. 49.45 (51).

History: 1983 a. 27; 1985 a. 29 ss. 1505p, 1505t, 3202 (46); 1985 a. 120; 1987 a. 27; 1989 a. 336; 1991 a. 307; 1993 a. 16; 1999 a. 150 s. 672; 2001 a. 109; 2003 a. 33, 170, 320; 2005 a. 254.

79.03 Calculating per capita and aidable revenues entitlements. (1) Ending with the distributions in 2003, each municipality and county is entitled to shared revenue, consisting

of an amount determined on the basis of population under sub. (2), plus an amount determined under sub. (3).

(2) (a) Every municipality’s portion of the amount distributable under sub. (1) based on population shall equal the final distribution per capita factor times its population.

(b) For purposes of par. (a), “final distribution per capita factor” means the product of the 1982 population of this state times \$30 divided by the state’s current year’s population.

(3) (a) The amount in the shared revenue account for municipalities and the amount in the shared revenue account for counties, less the payments under sub. (2) and s. 79.04, and, for the distribution in 2003, the amount appropriated under s. 20.835 (1) (m), (t), and (u), 2003 stats., shall be allocated to each municipality and county respectively in proportion to its entitlement. In this paragraph, “entitlement” means the product of aidable revenues and tax base weight.

(b) In this subsection:

1. “Aidable revenues” means:

a. For a municipality, the average local purpose revenues.

b. For a county, 85% of the average local purpose revenue.

2. “Average local purpose revenues” means the sum of the 3 prior years local purpose revenues divided by 3.

3. “Full valuation” means the full value of property that is exempt under s. 70.11 (39) and (39m) as determined under s. 79.095 (3) plus the full value of all taxable property for the preceding year as equalized for state tax purposes, except that for municipalities the value of real estate assessed under s. 70.995 is excluded. Value increments under s. 66.1105 plus the full value of property that is exempt under s. 70.11 (39) and (39m) that would otherwise be part of a value increment are included for municipalities but excluded for counties. Environmental remediation value increments under s. 66.1106 are included for municipalities and counties that create the environmental remediation tax incremental district and are excluded for units of government that do not create the district. If property that had been assessed under s. 70.995 and that has a value exceeding 10% of a municipality’s value is assessed under s. 70.10, 30% of that property’s full value is included in “full valuation” for purposes of the shared revenue payments in the year after the assessment under s. 70.10, 65% of that property’s full value is included in “full valuation” for purposes of the shared revenue payments in the year 2 years after the assessment under s. 70.10 and 100% of that property’s full value is included in “full valuation” for purposes of subsequent shared revenue payments.

4. “Local purpose revenues” means the sum of payments under s. 79.095, local general purpose taxes, regulation revenues, revenues for services to private parties by a county’s or municipality’s general operations or enterprises, revenue for sanitation services to private parties, special assessment revenues, tax base equalization aids and, for municipalities only, a proxy for private sewer service costs, a proxy for private solid waste and recycling service costs and a proxy for retail charges for fire protection purposes. In this subdivision:

a. “Local general purpose taxes” means the portion of tax increments collected for payment to a municipality under s. 66.1105 which is attributable to that municipality’s own levy, the portion of environmental remediation tax increments collected for payment to a municipality or county under s. 66.1106 that is attributable to that municipality’s or county’s own levy, general property taxes, excluding taxes for a county children with disabilities education board, collected to finance the general purpose government unit, property taxes collected for sewage and sanitary districts, mobile home fees, the proceeds of county sales and use taxes and municipal and county vehicle registration fees under s. 341.35 (1).

b. “Proxy for private sewer service costs” means the greater of zero or the amount computed by multiplying \$25 times the municipality’s population in the 2nd year preceding the distribution and then subtracting from that product the greater of 1) the

sum of municipal general operation and capital project sewer service expenditures including storm sewer expenditures, through general operations, special assessment funds or enterprises, the municipality's share, based on its proportion of the full value of taxable property in the county, of county taxes levied for a sanitary or sewage district if the municipality is served by the sewer services financed by the county levies, tax levies of sewage and sanitation districts; sewer service charges directly paid to a neighboring municipality or fiscally independent sewer utility, or 2) the sum of sewer service charges, municipal general operation and capital project storm sewer expenditures through general operations, special assessment funds or enterprises, the municipality's share, based on its proportion of the full value of taxable property in the county, of county taxes levied for a sanitary or sewage district if the municipality is served by the sewer services financed by the county levies, tax levies of sewage and sanitation districts.

bg. "Proxy for private solid waste and recycling service costs" means \$25 multiplied by the population of any municipality that does not provide solid waste and recycling services. In this subd. 4. bg., notwithstanding s. 79.005 (2), "population" means the number of persons residing in the municipality during the 2nd year preceding the distribution of payments, as determined under s. 16.96.

bm. "Proxy for retail charges for fire protection purposes", for any year used to calculate average local purpose revenues, equals the number of months in that year for which a municipality did not pay retail charges associated with water for public fire protection purposes to a public utility under s. 196.03 (3) (b), multiplied by one-twelfth of the total retail charges associated with water for public fire protection purposes, but not included in general service charges, that the municipality paid to a public utility during the most recent 12-month period in which all retail charges associated with public fire protection purposes were paid by the municipality.

c. "Regulation revenues" means revenues from construction and building permits and zoning fees.

d. "Revenue for sanitation services to private parties" means revenues collected from private parties by a county's or municipality's general operations or enterprises and by sewerage, sanitation or inland lake rehabilitation districts as refuse collection fees, sewerage service fees and landfill fees.

e. "Revenues for services to private parties by a county's or municipality's general operations or enterprises" means revenues collected from private parties for the following services: general government services consisting of license publication fees, sale of publications, clerk's fees and treasurer's fees; public safety services, consisting of police or sheriff's department fees, fire department fees and ambulance fees; inspection services, consisting of building, electrical, heat, plumbing, elevator and weights and measures; sidewalk replacement or construction fees, storm sewer construction fees, street lighting fees; parking ramps, meters and lot fees; library fines or fees; and museum and zoo users or admission fees.

f. "Special assessment revenues" means charges assessed against benefited properties for capital improvements by a municipality or county placed on the current tax roll for collection or collected during the year in advance of being placed on the tax roll.

g. "Tax base equalization aids" means payments received under par. (a) and s. 70.996 (1m) (c), 1977 stats. and 1979 stats., s. 79.03 (3), 1977 stats. and 1979 stats., and s. 79.16 (3), 1977 stats. and 1979 stats. For the calculation of 1982 local purpose revenues, "tax base equalization aids" means payments that would have been received under par. (a) if \$471,395,500 had been distributed under par. (a) plus payments received under s. 70.996 (1m) (c), 1977 stats. and 1979 stats., s. 79.03 (3), 1977 stats. and 1979 stats., and s. 79.16 (3), 1977 stats. and 1979 stats. For the calculation of local purpose revenues for 1983 and thereafter, "tax base equalization aids" means entitlements received under par. (a).

h. Taxes and revenues of sewerage, sanitation and inland lake rehabilitation districts that are local purpose revenues shall be allocated to municipalities in proportion to the amount of revenue that is derived from within the municipality.

5. "Standardized valuation" means the product of the standardized valuation per person times the population of a municipality or a county in the preceding year.

6. "Standardized valuation per person" is that number that when used in the computation under par. (a) most nearly approximates the sum of entitlements for all municipalities or for all counties respectively to the funds distributable under par. (a).

7. "Sum of local purpose revenues" means the sum of local purpose revenues for the 3 fiscal years ending 2 years prior to the year of distribution. For the purpose of this subdivision, local purpose revenues for any fiscal year before 1988 shall be defined according to subd. 4., 1985 stats.

8. "Tax base weight" means one minus the decimal obtained by dividing the full valuation by the standardized valuation, except that "tax base weight" shall be a decimal of at least 0.0.

(3c) (a) *Definition.* In this subsection, "full valuation" has the meaning given in sub. (3) (b) 3.

(b) *Eligibility.* Ending with the distributions in 2003, a municipality is eligible for a payment under this subsection if all of the following conditions are met:

1. The municipality's population is 5,000 or less in the year in which the statement under s. 79.015 is provided.

2. For the year before the year in which the statement under s. 79.015 is provided, the municipality levies property taxes for municipal purposes at a rate of at least one mill per dollar of full value under s. 70.57, or, with regard to payments in 2003, if the full valuation of property in the municipality is less than \$10,000,000, the municipality levies property taxes for municipal purposes at a rate of at least 0.85 mill per dollar of full value under s. 70.57.

3. a. Except as provided in subd. 3. b., the full valuation of the property in the municipality does not exceed \$40,000,000.

b. The full valuation of the property in the municipality may exceed \$40,000,000 if the land area of the municipality exceeds 54 square miles.

(bm) *Full value limit.* If the full valuation of the property in an eligible municipality exceeds \$40,000,000 and the land area of the eligible municipality exceeds 54 square miles, full valuation of the property in the eligible municipality shall be considered to be \$40,000,000 under pars. (c) 1., (d) 1. and (e) 1.

(c) *Payment.* Subject to the total distribution amount limits in par. (f), the minimum payment under par. (d) and the maximum payment under par. (e), each eligible municipality is entitled to shared revenue from the appropriation under s. 20.835 (1) (b), in addition to its shared revenue entitlements under sub. (1), calculated as follows:

1. Divide the full valuation of the property in the municipality by \$40,000,000.

2. Multiply the result under subd. 1. by \$55.

3. Subtract the amount under subd. 2. from \$55.

4. Multiply the result, the municipality's population by the amount under subd. 3. or by \$10, whichever is greater.

(d) *Minimum payment.* The minimum payment that an eligible municipality may receive under this subsection is the greater of zero or an amount calculated as follows:

1. Divide the full valuation of the property in the municipality by \$1,000,000.

2. Multiply the result under subd. 1. by \$720.

3. Subtract the amount under subd. 2. from \$18,000.

(e) *Maximum payment.* The maximum payment that an eligible municipality may receive under this subsection is the greater of \$10,000 or an amount calculated as follows:

1. Divide the full valuation of the property in the municipality by \$1,000,000.
2. Multiply the result under subd. 1. by \$1,750.
3. Subtract the amount under subd. 2. from \$45,000.

(f) *Distribution amount.* If the total amounts calculated under pars. (c) to (e) exceed the total amount to be distributed under this subsection, the amount paid to each eligible municipality shall be paid on a prorated basis. The total amount to be distributed under this subsection from s. 20.835 (1) (b) is \$10,000,000 beginning in 1996 and ending in 1999; and \$11,000,000 in the year 2000 and in the year 2001. The total amount to be distributed under this subsection from s. 20.855 (4) (rb), 2001 stats., and s. 20.835 (1) (b) in 2002 is \$11,110,000 and the total amount to be distributed under this subsection from s. 20.835 (1) (b) in 2003 is \$11,221,100 less the reductions under s. 79.02 (3) (c) 3.

(4) In 1991, the total amount to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.835 (1) (d) is \$885,961,300. In 1993, the total amount to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to municipalities and \$168,981,800 to counties. Beginning in 1995 and ending in 2001, the total amounts to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and \$168,981,800 to counties. In 2002, the total amounts to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.855 (4) (rb), 2001 stats., and s. 20.835 (1) (d) are \$769,092,800 to municipalities and \$170,671,600 to counties. In 2003, the total amounts to be distributed under ss. 79.03, 79.04, and 79.06 from s. 20.835 (1) (m), (t), and (u), 2003 stats., and s. 20.835 (1) (d) are \$776,783,700 to municipalities, less the reductions under s. 79.02 (3) (c) 3., and \$172,378,300 to counties, less the reductions under s. 79.02 (3) (c) 3.

(4b) The total amount specified in sub. (4) for any year shall be reduced by the total of all reductions in shared revenue payments for that year under s. 59.605 (4).

(5) (a) In 2002 and 2003, each municipality shall receive a shared revenue payment that is equal to the amount of the payment it received in the previous year, multiplied by 101%.

(b) The department of revenue shall use the population amounts it used to determine the November 2000, shared revenue payments to municipalities to calculate corrections to such payments in 2001, as provided under s. 79.08. The department of revenue shall use the population amounts it used to estimate payments under s. 79.015 in September 2000, to calculate actual and corrected 2001 shared revenue payments to municipalities.

(6) Beginning in 2004, no municipality or county may receive payments under subs. (2) and (3) and no municipality may receive a payment under sub. (3c).

History: 1971 c. 125, 215; 1973 c. 90; 1975 c. 39; 1977 c. 29, 203, 418; 1979 c. 1; 1979 c. 34 ss. 903s to 905m, 2102 (46) (d); 1979 c. 221; 1981 c. 20, 93, 314, 317; 1983 a. 27, 189; 1985 a. 29, 120; 1987 a. 27, 399; 1989 a. 31, 56, 336; 1991 a. 39, 269; 1993 a. 16, 437, 490; 1995 a. 27; 1997 a. 27, 164, 237; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 109; 2003 a. 33, 320; 2005 a. 253, 254.

The secretary of administration is not authorized by s. 16.50 (2) to reduce payments to municipalities under s. 79.03. *City of Milwaukee v. Lindner*, 98 Wis. 2d 624, 297 N.W.2d 828 (1980).

79.035 County and municipal aid. (1) In 2004 and subsequent years, each county and municipality shall receive a payment from the county and municipal aid account in an amount determined under sub. (2).

(2) (a) 1. Except as provided under ss. 79.02 (3) (e) and 79.043 (2) and (3), for the distribution in 2004, each county and municipality will receive a payment that is equal to the amount of the payments the county or municipality would have received in 2003 under ss. 79.03, 79.058, and 79.06, if not for the reductions under s. 79.02 (3) (c) 3., less the amount of the reduction under subd. 2.

2. The department of revenue shall reduce the amount of the payments to be distributed to each county and municipality, as determined under subd. 1., by subtracting from such payments an amount based on the county's or municipality's population, as determined by the department, so that the total amount of the reduction to all such payments in 2004 is \$40,000,000, except that the reduction applied to any county's or municipality's payment shall not exceed the amount of the payments specified under subd. 1. distributed to the county or municipality in 2003.

History: 2001 a. 109; 2003 a. 33, 164, 320, 327.

79.04 Public utility distribution. (1) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its boundaries a production plant, general structure, or substation, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 the amount determined as follows:

(a) An amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for "production plant, exclusive of land," "general structures," and "substations," in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, of the first \$125,000,000 of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a municipality under this subsection and sub. (6) in any year shall not exceed \$300 times the population of the municipality.

(b) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subs. 2., 3. and 4.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant, substation, or general structure in a municipality, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the municipality. The proportion shall be determined according to the proportional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

4. If property of a light, heat or power company described under par. (a) is included in the value of property for the distribution to the municipality under this subsection in 1990 and is located in territory annexed by another municipality after December 31, 1989, the amount established under subd. 1. shall be reduced annually by one-fifth of the value of the property located in the annexed territory for 5 consecutive years, beginning with the distribution in 1994 or with the first distribution after the year in which the annexation occurs, whichever is later.

(c) 1. The payment for any municipality in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be no less than \$75,000 annually, except that the amount distributable to a municipality in any year shall not exceed the per capita limit specified in par. (a).

2. If a production plant is located in more than one municipality, the total payment under subd. 1. shall be apportioned according to the amounts shown on the preceding December 31 for the production plant in the account described in par. (a) for “production plant exclusive of land” within each municipality for all public utilities except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), or according to the value as reported to the department of revenue under par. (a) of the production plant within each municipality for each qualified wholesale electric company. The payment to each municipality under this subdivision shall be no less than \$15,000 annually.

3. If a production plant with a nominal rated capacity of 200 megawatts or more is decommissioned or becomes nonutility property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue but diminish by \$7,500 annually, except that the minimum guaranteed payment under this subdivision shall cease in the year following the first year in which the property becomes taxable by the taxation district. In this subdivision, “nonutility property” has the meaning set forth in the uniform system of accounts established by the public service commission. This subdivision does not apply after the distributions in 2004.

(2) (a) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., to any county having within its boundaries a production plant, general structure, or substation, used by a light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant or substation is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for “production plant, exclusive of land,” “general structures,” and “substations,” in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats.,

determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county under this subsection and sub. (6) in any year shall not exceed \$100 times the population of the county.

(am) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a county may not be less than the amount determined to value the property for the distribution to the county under this subsection in 1990, subject to subsd. 2. and 3.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant, substation, or general structure in a county, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the county. The proportion shall be determined according to the proportional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

(b) The payment under par. (a) for any county in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be not less than \$75,000 annually, except that the amount distributable to a county in any year shall not exceed the per capita limit specified in par. (a).

(3m) For purposes of determining the amount of the payments under subs. (1) and (2), the payments for a municipality and county in which an ash disposal facility that is owned and operated by an electric cooperative is operating prior to July 30, 2003, shall be calculated to include an amount that is equal to the net book value of the ash disposal facility multiplied by 2.

(4) (a) Annually, in addition to the amounts distributed under subs. (1), (5), (6), and (7), the department of administration shall distribute \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on December 31 of the preceding year. If a spent nuclear fuel storage facility is located within one mile of a municipality, that municipality shall receive \$10,000 annually and the municipality where that storage facility is located shall receive \$40,000 annually.

(b) Annually, in addition to the amounts distributed under subs. (2), (5), (6), and (7), the department of administration shall distribute \$50,000 to a county if spent nuclear fuel is stored within the county on December 31 of the preceding year. If a spent nuclear fuel storage facility is located at a production plant located in more than one county, the payment shall be apportioned according to the formula under sub. (1) (c) 2., except that the formula, as it applies to municipalities in that subdivision, applies to counties in this paragraph. The payment under this paragraph may not be less than \$10,000 annually.

(5) (a) Beginning with the distributions in 2005, if property that was exempt from the property tax under s. 70.112 (4) and that was used to generate power by a light, heat, or power company, except property under s. 66.0813, unless the production plant is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative, or by a municipal electric company under s. 66.0825, is decommissioned, the municipality shall be paid, from the public utility account, an amount calculated by subtracting an amount equal to the property taxes paid for that property during the current year to the municipi-

pality for its general operations from the following percentages of the payment that the municipality received under this section during the last year that the property was exempt from the property tax:

1. In the first year that the property is taxable, 100%.
2. In the 2nd year that the property is taxable, 80%.
3. In the 3rd year that the property is taxable, 60%.
4. In the 4th year that the property is taxable, 40%.
5. In the 5th year that the property is taxable, 20%.

(b) Beginning with the distributions in 2005, if property that was exempt from the property tax under s. 70.112 (4) and that was used to generate power by a light, heat, or power company, except property under s. 66.0813, unless the production plant is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative, or by a municipal electric company under s. 66.0825, is decommissioned, the county shall be paid, from the public utility account, an amount calculated by subtracting an amount equal to the property taxes paid for that property during the current year to the county for its general operations from the following percentages of the payment the county received under this section during the last year that the property was exempt from the property tax:

1. In the first year that the property is taxable, 100%.
2. In the 2nd year that the property is taxable, 80%.
3. In the 3rd year that the property is taxable, 60%.
4. In the 4th year that the property is taxable, 40%.
5. In the 5th year that the property is taxable, 20%.

(6) (a) Annually, beginning in 2005, for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, the department of administration, upon certification by the department of revenue, shall distribute payments from the public utility account, as determined under par. (b), to each municipality and county in which a production plant is located, if the production plant has a name-plate capacity of at least one megawatt and is used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813, unless the production plant is owned or operated by a local governmental unit located outside of the municipality; by a qualified wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss. 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

(b) Subject to pars. (c) and (d), each municipality entitled to a payment under par. (a) and each county in which such a municipality is located shall receive a payment equal to a portion of an amount that is equal to the number of megawatts that represents the production plant's name-plate capacity, multiplied by \$2,000.

(c) 1. If the production plant is located in a city or village, the city or village receives a payment equal to two-thirds of the amount determined under par. (b) and the county in which the city or village is located receives a payment equal to one-third of the amount determined under par. (b). If the production plant is located in a town, the town receives a payment equal to one-third of the amount determined under par. (b), and the county in which the town is located receives a payment equal to two-thirds of the amount determined under par. (b). If a municipality is located in more than one county, the county in which the production plant is located shall receive the county portion of the payment.

2. For the purpose of determining the amount of the payment under par. (b), if a production plant is located in more than one municipality, the payment amount under par. (b) shall be divided among the municipalities in which the plant is located based on the net book value of that portion of the plant located in each municipality as of December 31, 2004, or as of the date on which the plant is operational, whichever is later.

3. For the purpose of determining the amount of the payment under par. (b), if a production plant is located in more than one county, the payment amount under par. (b) shall be divided among the counties in which the plant is located based on the net book value of that portion of the plant located in each county as of December 31, 2004, or as of the date on which the plant is operational, whichever is later.

(d) The total amount distributable to a municipality under this subsection and sub. (1) in any fiscal year shall not exceed an amount equal to the municipality's population multiplied by \$300, and the total amount distributable to a county under this subsection and sub. (2) in any year shall not exceed an amount equal to the county's population multiplied by \$100.

(7) (a) Beginning with payments in 2005, if a production plant, as described in sub. (6) (a), other than a nuclear-powered production plant, is built on the site of, or on a site adjacent to, an existing or decommissioned production plant; or is built on a site purchased by a public utility before January 1, 1980, that was identified in an advance plan as a proposed site for a production plant; or is built on, or on a site adjacent to, brownfields, as defined in s. 560.13 (1) (a), after December 31, 2003, and has a name-plate capacity of at least one megawatt, each municipality and county in which such a production plant is located shall receive annually from the public utility account a payment in an amount that is equal to the number of megawatts that represents the production plant's name-plate capacity, multiplied by \$600.

(b) Beginning with payments in 2005, if a production plant, as described in sub. (6) (a), that is a baseload electric generating facility is built after December 31, 2003, and has a name-plate capacity of at least 50 megawatts, each municipality and county in which such a production plant is located shall receive annually from the public utility account a payment in an amount that is equal to the number of megawatts that represents the production plant's name-plate capacity, multiplied by \$600.

(c) 1. Except as provided in subd. 2., beginning with payments in 2005, if a production plant, as described in sub. (6) (a), that derives energy from an alternative energy resource is built after December 31, 2003, and has a name-plate capacity of at least one megawatt, each municipality and county in which such a production plant is located shall receive annually from the public utility account a payment in an amount that is equal to the number of megawatts that represents the production plant's name-plate capacity, multiplied by \$1,000.

1m. Beginning with payments in 2005, if a cogeneration production plant, as described in sub. (6) (a), is built and completed after December 31, 2003, and has a name-plate capacity of at least one megawatt, each municipality and county in which such a cogeneration production plant is located shall receive annually from the public utility account a payment in an amount that is equal to the number of megawatts that represents the cogeneration production plant's name-plate capacity, multiplied by \$1,000. Any municipality or county that receives a payment under this subdivision in any year may not receive a payment under subd. 1. in that year, if the payment under subd. 1. is based on the same production plant as the payment under this subdivision.

2. If a production plant as described under subd. 1. fires an alternative energy resource together with a fuel other than an alternative energy resource, the number of megawatts used to calculate the payment under subd. 1. is the number of megawatts that represents the production plant's name-plate capacity multiplied by a percentage that represents the energy content of the alternative energy resource in the year prior to the year in which the payment is made as compared to the total energy content of the alternative energy resource and the other fuel in the year prior to the year in which the payment is made.

(d) For the purpose of determining the amount of any payment under this subsection, if a production plant is located in more than

one municipality or county, the payment amount shall be divided among the municipalities or counties in which the plant is located based on the net book value of that portion of the plant located in each municipality or county as of December 31, 2004, or as of the date on which the plant is operational, whichever is later.

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33, 89, 320; 2005 a. 253, 254.

79.043 Municipal aid. (1) As determined by the department of revenue based on 2003 population, and notwithstanding s. 79.035, per capita reductions to payment amounts for all municipalities under s. 79.035 shall be withheld that total \$50,000,000. The maximum reduction allowable to the payments to any municipality under this section, excluding any reduction under s. 79.02 (3) (e), is 15.68513 percent.

(2) If the amount of any municipality's payment under s. 79.04 in 2001 was less than 25 percent of the total amount of the municipality's payments under ss. 79.03, 79.04, and 79.06 in 2001 and if the amount of the municipality's payment under s. 79.04 in 2004 would be more than 75 percent of the municipality's payments under sub. (1) and ss. 79.035 and 79.04 in 2004, the municipality shall receive a county and municipal aid payment in 2004 that is equal to the amount of the payments the municipality would have received in 2003 under ss. 79.03, 79.04, and 79.06, if not for the reductions under s. 79.02 (3) (c) 3., and less the amount of the reductions calculated under sub. (1) and s. 79.035 (2) (a) 2. using the base established under this subsection.

(3) For the distribution in 2004, the department of revenue shall reduce the amount of the payments to be distributed to each municipality, except municipalities that receive payments as adjusted under sub. (2), by a percentage determined as follows:

(a) Determine the total amount of the payments calculated under sub. (2).

(b) From the amount determined under par. (a), subtract the total amount of the payments calculated under sub. (1) and s. 79.035 that the municipalities that qualify for payments under sub. (2) would receive if not for sub. (2).

(c) Determine the total amount of the payments to all municipalities under sub. (1) and s. 79.035.

(d) From the amount determined under par. (c), subtract the total amount of the payments calculated under sub. (1) and s. 79.035 that the municipalities that qualify for payments under sub. (2) would receive if not for sub. (2).

(e) Divide the amount determined under par. (b) by the amount determined under par. (d).

(4) Except as provided under s. 79.02 (3) (e), beginning in 2004 the total amount to be distributed each year to municipalities from the aid account is \$702,483,300.

(5) Except as provided under s. 79.02 (3) (e), for the distribution in 2005 and subsequent years, each county and municipality shall receive a payment under this section and s. 79.035 that is equal to the amount of the payment determined for the county or municipality under this section and s. 79.035 in 2004.

History: 2003 a. 33, 164 ss. 2 to 6; 2005 a. 25.

79.05 Expenditure restraint program. (1) In this section:

(a) "Full value" means the value determined under s. 70.57 including the value of tax increments under s. 66.1105.

(am) "Inflation factor" means a percentage equal to the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year before the statement under s. 79.015.

(b) "Municipal budget" means the municipality's general fund.

(c) "Property tax levy rate" means the amount determined as follows:

1. Subtract the tax increment under s. 66.1105 from the total property tax levy.

2. Subtract the tax incremental value under s. 66.1105 from the full value.

3. Divide the amount under subd. 1. by the amount under subd. 2.

(d) "Valuation factor" means a percentage equal to 60% of the percentage change in the municipality's equalized value due to new construction less improvements removed between the year before the statement under s. 79.015 and the previous year, but not less than zero nor greater than 2.

(2) A municipality is eligible for a payment under sub. (3) if it fulfills all of the following requirements:

(a) Its property tax levy rate established during the year before the statement under s. 79.015 is greater than 5 mills.

(c) Its municipal budget; exclusive of principal and interest on long-term debt and exclusive of revenue sharing payments under s. 66.0305 and recycling fee payments under s. 289.645; for the year of the statement under s. 79.015 increased over its municipal budget as adjusted under sub. (6); exclusive of principal and interest on long-term debt and exclusive of revenue sharing payments under s. 66.0305 and recycling fee payments under s. 289.645; for the year before that year by less than the sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

(2m) Annually, on November 1, the department of revenue shall certify the appropriate percentage change in the consumer price index that is to be used in the requirement under sub. (1) (am) to the joint committee on finance.

(3) Each municipality that qualifies under sub. (2) shall receive a payment calculated as follows:

(a) Subtract 5 mills from the municipality's property tax levy rate.

(b) Multiply the amount under par. (a) by the municipality's full value.

(c) Divide the amount under par. (b) by the total of the amounts under par. (b) for all municipalities that qualify.

(d) Multiply the amount under par. (c) by the amount for the year under s. 79.01 (1).

(5) No municipality may, for the purpose of qualifying for a payment under this section, establish a fund, other than a general fund, that does not conform to generally accepted accounting principles promulgated by the governmental accounting standards board or its successor bodies.

(6) (a) If a municipality transfers to another governmental unit responsibility for providing any service that the municipality provided in the preceding year, its budget for the preceding year shall be decreased to reflect the cost that the municipality incurred to provide that service, as determined by the department of revenue.

(b) If a municipality increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, its budget for the preceding year shall be increased to reflect the cost of that service, as determined by the department of revenue.

History: 1989 a. 336; 1991 a. 39, 61; 1993 a. 16; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16.

Cross Reference: See also ch. Tax 19, Wis. adm. code.

79.058 County mandate relief. (1) Ending with the distributions in 2003, each county is entitled to a mandate relief payment equal to the per person distribution under sub. (2) times the county's population for the year in which the statement under s. 79.015 is provided as determined under s. 16.96 (2).

(2) The per person distribution is determined by dividing the total amount to be distributed to counties from s. 20.835 (1) (f) by the state population for the year in which the statement under s. 79.015 is provided as determined under s. 16.96.

(3) The total amount to be distributed to counties under sub. (1) from s. 20.835 (1) (f) is:

- (a) In 1994, \$4,725,200.
 - (b) Beginning in 1995 and ending in 1999, \$20,159,000.
 - (c) In the year 2000 and in 2001, \$20,763,800.
 - (d) In 2002, \$20,971,400, less amounts paid from the appropriation account under s. 20.855 (4) (rb), 2001 stats.
 - (e) In 2003, \$21,181,100, less the reductions under s. 79.02 (3) (c) 3.
- (4) Beginning in 2004, no county may receive a payment under this section.

History: 1993 a. 16, 437; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33, 320.

79.06 Minimum and maximum payments. (1) MINIMUM PAYMENTS. (b) Ending with the distributions in 2003, if the payments to any municipality or county under s. 79.03, excluding payments under s. 79.03 (3c), in 1986 or any year thereafter are less than 95% of the combined payments to the municipality or county under this section and s. 79.03, excluding payments under s. 79.03 (3c), for the previous year, the municipality or county has an aids deficiency. The amount of the aids deficiency is the amount by which 95% of the combined payments to the municipality or county under this section and s. 79.03, excluding payments under s. 79.03 (3c), in the previous year exceeds the payments to the municipality or county under s. 79.03, excluding payments under s. 79.03 (3c), in the current year.

(c) Ending with the distributions in 2003, a municipality or county that has an aids deficiency shall receive a payment from the amounts withheld under sub. (2) equal to its proportion of all the aids deficiencies of municipalities or counties respectively for that year.

(2) MAXIMUM PAYMENTS. (b) Ending with the distributions in 2003, if the payments to a municipality or county, except any county in which there are no cities or villages, or any county created in the year 1846 or 1847, with a population in the year 1990 greater than 16,000 but less than 17,000, as determined by the 1990 federal decennial census, in any year exceed its combined payments under this section and s. 79.03, excluding payments under s. 79.03 (3c), in the previous year by more than the maximum allowable increase, the excess shall be withheld to fund minimum payments in that year under sub. (1) (c).

(c) In this subsection, “maximum allowable increase” in any year means a percentage such that the sum for all municipalities or counties respectively in that year of the excess of payments under ss. 79.02 and 79.03, excluding payments under s. 79.03 (3c), over the payments as limited by the maximum allowable increase is equal to the sum of the aids deficiencies under sub. (1) in that year.

(3) SUNSET. Beginning in 2004, no municipality or county may receive a payment under this section.

History: 1971 c. 125, 215; 1973 c. 90; 1975 c. 39; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20, 93; 1983 a. 27; 1985 a. 29; 1991 a. 39; 1993 a. 16; 1995 a. 27; 2001 a. 16, 109.

79.08 Corrections. If the department of administration or the department of revenue determines by August 15 of the year following any distribution under this subchapter that there was an overpayment or underpayment made in any certification by the department of revenue or resulting from populations changed as a result of a final court determination or a census determination under s. 16.96 (2) (dm) or (e) or in the distribution by the department of administration, the overpayment or underpayment shall be corrected as provided in this section. No corrections to the elements of any distribution may be made after August 15 of the year following the distribution. Any overpayment shall be corrected by reducing the subsequent year’s distribution under this subchapter. Any underpayment shall be corrected by increasing the subsequent year’s distribution under this subchapter. Corrections shall be made in the distributions to all municipalities and counties affected by the error. Corrections shall be without interest.

History: 1973 c. 158, 333; 1977 c. 29; 1979 c. 34; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 336; 1991 a. 39.

79.09 Administration. Counties and municipalities shall submit the information required under this subchapter by the department of revenue on forms prescribed by the department. Annually, each county and municipality may contract with a certified public accountant licensed under ch. 442 to compile and submit to the department the information required.

History: 1975 c. 39; 1985 a. 29.

79.095 State aid; computers. (1) DEFINITIONS. In this section:

(a) “Department” means the department of revenue.
 (b) “Gross tax rate” means the property tax rate without consideration of the credits under subch. II.

(bm) “Special purpose district” means a metropolitan sewerage district organized under subch. II of ch. 200, a town sanitary district organized under subch. IX of ch. 60, a metropolitan sewerage district created under s. 200.05, or a public inland lake protection and rehabilitation district organized under subch. IV of ch. 33.

(c) “Taxing jurisdiction” means a municipality, county, school district, special purpose district, tax incremental district, environmental remediation tax incremental district, or technical college district.

(2) REPORTING. Each municipality shall report to the department the following information:

(a) On or before May 1, the value of the property that is exempt under s. 70.11 (39) and (39m) in each taxing jurisdiction for which the municipality assesses property.

(b) On or before December 31, the tax rate used for each tax incremental district for which the municipality assesses property and for each environmental remediation tax incremental district for which the municipality assesses property.

(3) REVIEW BY DEPARTMENT. The department shall adjust each rate reported under sub. (2) (b) to a full-value rate. The department shall review and correct the information submitted under sub. (2) (a), shall determine the full value of all of the property reported under sub. (2) (a) and of all the property under s. 70.995 (12r) and, on or before October 1, shall notify each taxing jurisdiction of the full value of the property that is exempt under s. 70.11 (39) and (39m) and that is located in the jurisdiction. The department shall adjust the full value that is reported to taxing jurisdictions under this subsection in the year after an error occurs or a value has been changed due to an appeal. All disputes between the department and municipalities about the value of the property reported under sub. (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the procedures under s. 70.995 (8).

(4) PAYMENT. The department shall calculate the payments due each taxing jurisdiction under this section by multiplying the full value as of the January 1 of the preceding year of the property that is exempt under s. 70.11 (39) and (39m) and that is located in the jurisdiction by the full-value gross tax rate of the jurisdiction for the preceding year. The department shall certify the amount of the payment due each taxing jurisdiction to the department of administration, which shall make the payments on or before the first Monday in May except that, beginning in 2007, the department of administration shall make the payments on or before the 4th Monday in July. For purposes of ch. 121, school districts shall treat the payments made in July under this subsection as if they had been received in the previous school year.

History: 1997 a. 237; 2001 a. 16, 30; 2005 a. 25, 418.

SUBCHAPTER II

PROPERTY TAX CREDITS

79.10 Wisconsin state property tax relief. (1) DEFINITIONS. In this section:

(b) “Average school tax levies” means the average of the school tax levies for the 3 years preceding the assessment year to which the tax credit is to apply.

(d) “Municipality” means any town, village or city in this state. Where a municipality is located in more than one county the portion thereof in each county shall be considered a separate municipality.

(dm) “Principal dwelling” means any dwelling that is used by the owner of the dwelling as a primary residence on January 1 of the year preceding the allocation of a credit under sub. (9) (bm) and includes improvements that are classified, under ch. 70, as taxable real property or personal property.

(e) “School tax levies” means property taxes levied in a municipality for elementary and secondary school districts and for county children with disabilities education board programs under s. 115.817, net of municipal surplus funds applied against those levies.

(g) “School tax rate” means the taxes levied by school districts, as defined in s. 115.01 (3), as reflected on each property tax bill divided by the estimated fair market value of the property as reflected on each tax bill.

(1m) (a) Each municipality shall notify the department of revenue of the total amount of credits allocated under sub. (9) (bm).

(b) Counties and municipalities shall submit to the department of revenue all data related to the lottery and gaming credit and requested by the department of revenue.

(2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year preceding the distribution under sub. (7m) (a), the department of revenue shall notify the clerk of each town, village and city of the estimated fair market value, as determined under sub. (11), to be used to calculate the lottery and gaming credit under sub. (5) and of the amount to be distributed to it under sub. (7m) (a) on the following 4th Monday in July. The anticipated receipt of such distribution shall not be taken into consideration in determining the tax rate of the municipality but shall be applied as tax credits.

(4) SCHOOL LEVY TAX CREDIT. The amount appropriated under s. 20.835 (3) (b) shall be distributed to municipalities in proportion to their share of the sum of average school tax levies for all municipalities.

(5) LOTTERY AND GAMING CREDIT. Each municipality shall receive, from the appropriation under s. 20.835 (3) (q), an amount determined by multiplying the school tax rate by the estimated fair market value, not exceeding the value determined under sub. (11), of every principal dwelling that is located in the municipality and for which a claim for the credit under sub. (9) (bm) is made by the owner of the principal dwelling.

(6m) CORRECTIONS OF STATE PROPERTY TAX CREDIT PAYMENTS. (a) Except as provided in pars. (b) and (c), if the department of administration or the department of revenue determines by October 1 of the year of any distribution under subs. (4) and (5) that there was an overpayment or underpayment made in that year’s distribution by the department of administration to municipalities, as determined under subs. (4) and (5), because of an error by the department of administration, the department of revenue or any municipality, the overpayment or underpayment shall be corrected as provided in this paragraph. Any overpayment shall be corrected by reducing the subsequent year’s distribution, as determined under subs. (4) and (5), by an amount equal to the amount of the overpayment. Any underpayment shall be corrected by increasing the subsequent year’s distribution, as determined under subs. (4) and (5), by an amount equal to the amount of the underpayment. Corrections shall be made in the distributions to all municipalities affected by the error. Corrections shall be without interest.

(b) If, after March 1 of the year of any distribution under sub. (5), a municipality discovers an error in the notice that the municipality furnished under sub. (1m) that resulted in an overpayment of that year’s distribution to the municipality, as determined under sub. (5), the municipality shall correct the error and notify the department of revenue of the correction on a form that the department prescribes. If, after March 1 of the year of any distribution

under sub. (5), the department of administration or the department of revenue discovers an error in the notice that the municipality furnished under sub. (1m) that resulted in an overpayment of that year’s distribution to the municipality, as determined under sub. (5), the department of administration or the department of revenue shall notify the municipality and the municipality shall correct the error. The municipality may pay the amount of the overpayment to the department of revenue and, if the municipality chooses to make such a payment, shall submit the payment with the form prescribed under this paragraph. If the municipality does not pay the amount of the overpayment, the department of administration may collect the amount of the overpayment as a special charge to the municipality or may correct the overpayment as provided under par. (a). Payments under this paragraph shall be without interest and shall be deposited in the lottery fund.

(c) If, after March 1 of the year of any distribution under sub. (5), a municipality discovers an error in the notice that the municipality furnished under sub. (1m) that resulted in an underpayment of that year’s distribution to the municipality, as determined under sub. (5), the municipality shall correct the error and notify the department of revenue on a form that the department prescribes. If, after March 1 of the year of any distribution under sub. (5), the department of administration or the department of revenue discovers an error in the notice that the municipality furnished under sub. (1m) that resulted in an underpayment of that year’s distribution to the municipality, as determined under sub. (5), the department of administration or the department of revenue shall notify the municipality and the municipality shall correct the error. The department of revenue may either pay the amount of the underpayment to the municipality, from the appropriation under s. 20.835 (3) (q), or correct the underpayment as provided under par. (a). Payments under this paragraph shall be without interest.

(7m) DISTRIBUTION TO MUNICIPALITIES. (a) *School tax credit.* 1. The amount determined under sub. (4) shall be distributed by the department of administration on the 4th Monday in July.

2. The town, village or city treasurer shall settle for the amounts distributed under this paragraph on the 4th Monday in July with the appropriate county treasurer not later than August 15. Failure to settle timely under this subdivision subjects the town, village or city treasurer to the penalties under s. 74.31. On or before August 20, the county treasurer shall settle with each taxing jurisdiction, including towns, villages and cities except 1st class cities, in the county.

(b) *Lottery and gaming credit.* 1. The amount determined under sub. (5) with respect to claims filed for which the town, village or city has furnished notice under sub. (1m) by March 1 shall be distributed from the appropriation under s. 20.835 (3) (q) by the department of administration on the 4th Monday in March.

2. The town, village or city treasurer shall settle for the amounts distributed on the 4th Monday in March under this paragraph with each taxing jurisdiction within the taxation district or provide the amounts distributed to the appropriate county treasurer for settlement not later than April 15. Failure to settle timely under this subdivision subjects the town, village or city treasurer to the penalties under s. 74.31. On or before August 20, the county treasurer shall settle with each taxing jurisdiction, including towns, villages and cities except 1st class cities, in the county.

(8) DELAYED PAYMENTS. If a municipality receives a payment under this section that, under s. 16.53, is made after the date specified in this section, that municipality shall as soon as possible distribute to each taxing district for which the municipality collects taxes that district’s share of the payment and of the interest in respect to that payment.

(9) CREDIT AGAINST TAX LIABILITY. (b) *Property tax relief credit.* Except as provided in ss. 79.175 and 79.18, every property taxpayer of the municipality having assessed property shall receive a tax credit in an amount determined by applying the percentage of the amount of the value of property assessed to the taxpayer to the amount of the distribution to be made to the municipi-

pality under sub. (7m) (a), as stated in the December 1 notification from the department of revenue, except that no taxpayer may receive a credit larger than the total amount of property taxes to be paid on each parcel for which tax is levied for that year by that taxpayer.

(bm) *Lottery and gaming credit.* Except as provided in ss. 79.175 and 79.18, a lottery and gaming credit shall be allocated to every principal dwelling for which a credit is claimed under sub. (10) in an amount determined by multiplying the estimated fair market value of the principal dwelling, not exceeding the value determined under sub. (11), by the school tax rate.

(c) *Credits shown on tax bill.* 1. The lottery and gaming credit under par. (bm) shall reduce the property taxes otherwise payable on property that is eligible for that credit and if the property owner completes the information required under sub. (10) (a) or (b).

2. The credit under par. (b) shall reduce the property taxes otherwise payable.

(d) *Credit limit.* No taxpayer may receive in respect to any parcel credits under this subchapter that exceed the total amount of property taxes due on that parcel.

(10) CLAIMING THE LOTTERY AND GAMING CREDIT. (a) Beginning with property taxes levied in 1999, the owner of a principal dwelling may claim the credit under sub. (9) (bm) by applying for the credit on a form prescribed by the department of revenue. A claimant shall attest that, as of the certification date, the claimant is an owner of property and that such property is used by the owner in the manner specified under sub. (1) (dm). The certification date is January 1 of the year in which the property taxes are levied. The claimant shall file the application for the lottery and gaming credit with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, with the treasurer of the city in which the property is located. Subject to review by the department of revenue, a treasurer who receives a completed application shall direct that the property described in the application be identified on the next tax roll as property for which the owner is entitled to receive a lottery and gaming credit. A claim that is made under this paragraph is valid for as long as the property is eligible for the credit under sub. (9) (bm).

(b) A person who becomes eligible for a credit under sub. (9) (bm) may claim the credit by filing an application, on a form prescribed by the department of revenue, with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, with the treasurer of the city in which the property is located. Claims made under this paragraph are valid for as long as the property is eligible for the credit under sub. (9) (bm).

(bm) 1. A person who is eligible for a credit under sub. (9) (bm) but whose property tax bill does not reflect the credit may claim the credit by applying to the treasurer of the taxation district in which the property is located for the credit under par. (a) by January 31 following the issuance of the person's property tax bill. The treasurer shall compute the amount of the credit; subtract the amount of the credit from the person's property tax bill; notify the person of the reduced amount of the property taxes due; issue a refund to the person if the person has paid the property taxes in full; and enter the person's property on the next tax roll as property that qualifies for a lottery and gaming credit. Claims made under this subdivision are valid for as long as the property is eligible for the credit under sub. (9) (bm).

2. A person who may apply for a credit under subd. 1. but who does not timely apply for the credit under subd. 1. may apply to the department of revenue no later than October 1 following the issuance of the person's property tax bill. Subject to review by the department, the department shall compute the amount of the credit; issue a check to the person in the amount of the credit; and notify the treasurer of the county in which the person's property is located or the treasurer of the taxation district in which the person's property is located, if the taxation district collects taxes

under s. 74.87. The treasurer shall enter the person's property on the next tax roll as property that qualifies for a lottery and gaming credit. Claims made under this subdivision are valid for as long as the property is eligible for the credit under sub. (9) (bm).

(bn) 1. If a person who owns and uses property as specified under sub. (1) (dm), as of the certification date under par. (a), transfers the property after the certification date, the transferee may apply to the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, to the treasurer of the city in which the property is located for the credit under sub. (9) (bm) on a form prescribed by the department of revenue. The transferee shall attest that, to the transferee's knowledge, the transferor used the property in the manner specified under sub. (1) (dm) as of the certification date under par. (a). A claim that is made under this subdivision is valid for as long as the property is eligible for the credit under sub. (9) (bm).

2. A person who is eligible for a credit under subd. 1. but whose property tax bill does not reflect the credit may claim the credit by applying to the treasurer of the taxation district in which the property is located for the credit by January 31 following the issuance of the person's property tax bill. Claims made after January 31, but no later than October 1 following the issuance of the person's property tax bill, shall be made to the department of revenue. Paragraph (bm), as it applies to processing claims made under that paragraph, applies to processing claims made under this subdivision.

(c) If a person who is certified under par. (a) to claim the credit under sub. (9) (bm) becomes ineligible for the credit under sub. (9) (bm), that person shall, within 30 days of becoming ineligible, notify the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, the treasurer of the city in which the property is located.

(d) If the department of revenue determines that a credit was extended to a taxpayer who was not entitled to the credit for reasons other than that the taxpayer failed to complete the information required under par. (a), the department of revenue shall instruct the appropriate taxation district to collect the credit as a special charge on the next property tax bill issued for the property.

(e) A county or a city, if the city collects taxes under s. 74.87, may use a certification procedure other than the certification procedure under par. (a) if all of the following apply:

1. The certification procedure includes a method to identify taxable property that is used as the property owner's principal dwelling.

2. The certification procedure includes a procedure that is similar in effect to the procedure described in par. (bm).

3. The certification procedure is approved by the department of revenue.

(f) Each county and city that administers the credit under sub. (9) (bm) shall implement a procedure to periodically verify the eligibility of properties for which a credit is claimed. In 2004, and every 5th year thereafter, each county and city that administers the credit under sub. (9) (bm) shall file a report with the department of revenue, in the manner and at the time prescribed by the department of revenue, that describes the procedures that the county or city uses to verify the credits claimed under this subsection and evaluates the efficacy of such procedures.

(11) LOTTERY AND GAMING CREDIT ESTIMATED FAIR MARKET VALUE. (a) For property taxes levied in 1997 and thereafter, the estimated fair market value shall be determined under par. (b).

(b) Before October 16, the department of administration shall determine the total funds available for distribution under the lottery and gaming credit in the following year and shall inform the joint committee on finance of that total. Total funds available for distribution shall be all moneys projected to be transferred to the lottery fund under ss. 20.455 (2) (g) and 20.505 (8) (am), (g) and (jm) and all existing and projected lottery proceeds and interest for the fiscal year of the distribution, less the amount estimated to be

expended under ss. 20.455 (2) (r), 20.566 (2) (r), and 20.835 (2) (q) and less the required reserve under s. 20.003 (5). The joint committee on finance may revise the total amount to be distributed if it does so at a meeting that takes place before November 1. If the joint committee on finance does not schedule a meeting to take place before November 1, the total determined by the department of administration shall be the total amount estimated to be distributed under the lottery and gaming credit in the following year.

(c) Before November 1, the department of administration shall inform the department of revenue of the total amount available for distribution under the lottery and gaming credit in the following year. Before December 1, the department of revenue shall calculate, to the nearest \$100, the estimated fair market value necessary to distribute the total amount available for distribution under the lottery and gaming credit in the following year.

History: 1971 c. 125 ss. 412, 521; Stats. 1971 s. 79.10; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29, 418; 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1174 to 1182n, 2202 (45) (b); 1981 c. 93, 314, 317; 1983 a. 2 ss. 6 to 10, 12; 1983 a. 3, 27; 1983 a. 189 s. 329 (17m); 1983 a. 395; 1985 a. 4, 29, 39, 120; 1987 a. 27, 378; 1991 a. 39, 225, 269, 323; 1993 a. 16; 1995 a. 27; 1997 a. 27, 164; 1999 a. 5, 9, 83, 84, 185; 2001 a. 16; 2003 a. 33; 2005 a. 399.

Cross Reference: See also ch. Tax 20, Wis. adm. code.

79.11 Payment of tax credits. (1) The extension of the tax credits authorized by s. 79.10 on the tax roll shall be deemed payment of that portion of the total tax due on property to which such credits are applicable.

(2) Except as provided in s. 79.10 (10) (d), the payment of the difference between the total tax which is due on any property less the amount of the tax credits applicable to such property authorized by this subchapter shall be considered payment in full of the property taxes due thereon in that year.

(3) (a) In those cities, villages and towns where the payment of property taxes is authorized to be made in installments, such installment payments shall be based on the net amount of taxes due after the tax credits authorized by this subchapter have been applied.

(b) Notwithstanding ss. 74.11 (2) (b) and 74.12 (2) (b), the lottery and gaming credit shall be deducted in its entirety from the

first installment. This paragraph does not apply to the payment of taxes in installments under s. 74.87.

History: 1971 c. 125 s. 411; Stats. 1971 s. 79.11; 1991 a. 39, 323; 1997 a. 27; 1999 a. 5.

79.13 Farmland tax relief credit. (1) In the 1999–2000 fiscal year, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (dn) is \$15,000,000.

(2) (a) In the 2000–01 fiscal year, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) is \$15,000,000, plus the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (dn) in the previous fiscal year and less the actual amount that is expended from the appropriation under s. 20.835 (2) (dn) in the previous fiscal year.

(b) In the 2001–02 fiscal year, and in each fiscal year thereafter, the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) is \$15,000,000, plus the amount that is estimated to be expended from the appropriation under s. 20.835 (2) (q) in the previous fiscal year and less the actual amount that is expended from the appropriation under s. 20.835 (2) (q) in the previous fiscal year.

History: 1999 a. 5, 9.

79.14 School levy tax credit. The appropriation under s. 20.835 (3) (b) is \$319,305,000 in 1994, 1995, and 1996; \$469,305,000 beginning in 1997 and ending in 2006; and \$593,050,000 in each year thereafter.

History: 1991 a. 39, 315; 1995 a. 27; 2005 a. 25.

79.175 Excess tax credit corrections. If a municipality applies excess tax credits on the tax roll under s. 79.10 (9), the municipal clerk shall correct the excess application by deducting the excess amount from the appropriate credits in the following year.

History: 1975 c. 39; 1981 c. 20, 314; 1985 a. 29 s. 3202 (56) (b), (f); 1991 a. 39.

79.18 Insufficient tax credit corrections. If a municipality applies insufficient tax credits on the tax roll under s. 79.10 (9), the municipal clerk shall correct the deficiency by adding the deficient amount to the appropriate credits in the following year.

History: 1975 c. 39; 1981 c. 20; 1985 a. 29 s. 3202 (56) (b), (f); 1987 a. 27; 1991 a. 39.